

the names and addresses of employers for whom the employee worked during a specified period of time, the periods employed, and the gross amount of wages earned.

[52 FR 10508, Apr. 1, 1987, as amended at 53 FR 11594, Apr. 7, 1988]

§ 10.126 Claims for continuing compensation for death.

A beneficiary to whom an award of compensation has been made on account of an employee's death shall submit additional claims for continuing compensation to the Office once each year, or when required by the Office. Form CA-12 is provided by the Office for this purpose and will be sent to the beneficiary when an additional claim is required. If a beneficiary when required, fails within 30 days of the date of request to submit the form (or an equivalent written statement), the beneficiary's right to compensation, including compensation payable to that beneficiary for or on behalf of another (e.g., compensation payable to a widow on behalf of a child), shall be suspended until such time as the requested form or equivalent written statement is received, at which time compensation will be reinstated at the appropriate rate retroactive to the date of suspension.

[52 FR 10509, Apr. 1, 1987]

§ 10.127 Continuation of death compensation for a child, brother, sister or grandchild who has reached the age of 18.

Compensation payable on behalf of a child, brother, sister, or grandchild under 5 U.S.C. 8133, which would otherwise be terminated because such individual has reached 18 years of age, shall be continued if and for so long as he or she is not married and is physically or mentally incapable of self-support, or if he or she is a student as defined in § 10.5(a)(25) for so long as he or she is not married and continues as a student. An individual in receipt of compensation under the provisions of 5 U.S.C. 8133 shall furnish, when so required by the Office, proof of continuing entitlement to such compensation, including certification of school enrollment. If a beneficiary when required, fails within 30 days of the date of the

request to submit such proof, the beneficiary's right to compensation shall be suspended until the requested information is received, at which time compensation will be reinstated retroactive to the date of suspension, provided the beneficiary is entitled to such compensation.

[52 FR 10510, Apr. 1, 1987]

§ 10.128 Termination of right to compensation for death; reapportionment of compensation.

(a) When a beneficiary who is receiving compensation on account of death ceases to be entitled to such compensation by reason of death, remarrying before age 60, marrying, reaching the age of 18, ceasing to be dependent, ceasing to be student, or becoming capable of self-support, the beneficiary or someone acting on the beneficiary's behalf shall immediately notify the Office of such event. If the beneficiary, or someone acting on the beneficiary's behalf, receives a check which includes payment of compensation for any period after the date when entitlement ceased for any of the above reasons, the check shall be promptly returned to the Office. The terms marrying and remarrying include common law marriage as recognized and defined by state law in the state where the beneficiary resides.

(b) An event as described in paragraph (a) of this section which results in the termination of compensation to a beneficiary may also result in a reapportionment of the amount of compensation payable to one or more of the remaining beneficiaries. Similarly, the birth of a posthumous child of the deceased employee may also result in a reapportionment of the amount of compensation payable to other beneficiaries. The parent, or someone acting on the child's behalf, shall promptly notify the Office of the birth and submit a certified copy of the birth certificate.

[52 FR 10511, Apr. 1, 1987]

DETERMINATIONS OF CLAIMS, HEARING AND REVIEW PROCEDURES

§ 10.130 Processing of claims.

Claims for compensation for disability and death are processed by claims examiners of the Office, whose duty it

is to apply the law to the facts as reported, received, or obtained upon investigation. The Federal Employees' Compensation Act, as amended, requires that a decision with respect to entitlement contain findings of fact and be based on consideration of the claim presented by the claimant, the report by his or her immediate official superior, and the completion of such investigation as the Office may deem necessary. There is no required procedure for the production of evidence but the evidence should be in written form. The final authority in the Office in the determination of a claim is vested in the Director of the Office. The decision shall contain findings of fact and a statement of reasons. A copy of the decision, together with information as to the right to a hearing, to a reconsideration, and to an appeal to the Employees' Compensation Appeals Board, shall be mailed to the claimant's last known address. If the claimant is represented before the Office, a copy of the decision will also be mailed to such representative. At the time the decision is issued, a copy will also be sent to the claimant's employing agency.

[52 FR 10511, Apr. 1, 1987]

§ 10.131 Request for a hearing.

(a) Any claimant not satisfied with a decision of the Office shall be afforded an opportunity for an oral hearing before an Office representative designated by the Director. A hearing must be requested in writing within 30 days of the date of issuance of the decision and be made to the Office as set forth in the decision. A claimant is not entitled to an oral hearing if the request is not made within 30 days of the date of issuance of the decision as determined by the postmark of the request, or if a request for reconsideration of the decision is made pursuant to 5 U.S.C. 8128(a) and § 10.138(b) of this subpart prior to requesting a hearing, or if review of the written record as provided by paragraph (b) of this section has been obtained. At an oral hearing, the claimant shall be afforded the opportunity to present oral testimony and/or written evidence in further support of the claim. A claimant may change his or her selection of an oral hearing to a review of the written

record as provided by paragraph (b) of this section; however, such written request for change must be made within 30 days after the date of the Office's acknowledgment of receipt of the initial request.

(b) In lieu of an oral hearing, a claimant shall be afforded an opportunity for a review of the written record by an Office representative designated by the Director. Such review will not involve oral testimony or attendance of the claimant; however, the claimant may submit any written evidence or argument which he or she believes relevant. A review of the written record must be requested in writing within 30 days of the date of issuance of the decision, specify the decision and/or issue which is the subject of the request, and be made to the Office as set forth in the decision. A claimant is not entitled to a review of the written record if the request is not made within 30 days of the date of issuance of the decision as determined by the postmark of the request, or if a request for reconsideration of the decision is made pursuant to 5 U.S.C. 8128(a) and § 10.138(b) of this subpart prior to requesting a review of the written record, or if an oral hearing has been obtained as provided by paragraph (a) of this section. A claimant may change his or her selection of a review of the written record to an oral hearing as provided by paragraph (a) of this section; however, such written request for change must be made within 30 days after the date of the Office's acknowledgment of receipt of the initial request. Where timely request for a review of the written record is received, the Office shall furnish the employing agency with a copy of the claimant's request and allow 15 days for the agency to submit any comments and/or documents which it believes relevant and material to the issue in question. Any comments or documents submitted by the agency are subject to review and comment by the claimant within 15 days following the date the Office sends any such agency submission to the claimant. Following a review of the record and any evidence submitted, the Office representative shall decide the claim and inform the claimant, the claimant's